

# PATENT COOPERATION TREATY

# PCT

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY


(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

REC'D 05 OCT 2005

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Applicant's or agent's file reference MS/13738.73		FOR FURTHER ACTION	See Form PCT/PEA416
International application No. PCT/CA2004/001006	International filing date (day/month/year) 14.07.2004	Priority date (day/month/year) 14.07.2003	
International Patent Classification (IPC) or national classification and IPC F21V21/18, A47G7/04, B65H75/44			
Applicant COBRA FIXATIONS CIE. LTEE - COBRA ANCHORS CO. LTD			
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 7 sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input checked="" type="checkbox"/> sent to the applicant and to the International Bureau) a total of 7 sheets, as follows:</p> <p><input checked="" type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>			
<p>4. This report contains indications relating to the following items:</p> <p><input checked="" type="checkbox"/> Box No. I Basis of the opinion</p> <p><input type="checkbox"/> Box No. II Priority</p> <p><input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p><input type="checkbox"/> Box No. IV Lack of unity of invention</p> <p><input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p><input type="checkbox"/> Box No. VI Certain documents cited</p> <p><input checked="" type="checkbox"/> Box No. VII Certain defects in the international application</p> <p><input checked="" type="checkbox"/> Box No. VIII Certain observations on the international application</p>			
Date of submission of the demand  14.02.2005		Date of completion of this report  04.10.2005	
Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465		Authorized Officer  Kising, A  Telephone No. +49 89 2399-2174	



# INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

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## Box No. I Basis of the report

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1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language, which is the language of a translation furnished for the purposes of:
- ☐ international search (under Rules 12.3 and 23.1(b))
  - ☐ publication of the international application (under Rule 12.4)
  - ☐ international preliminary examination (under Rules 55.2 and/or 55.3)
2. With regard to the elements\* of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:

### Description, Pages

1-12 as originally filed

### Claims, Numbers

1-30 received on 06.04.2005 with letter of 29.03.2005

### Drawings, Sheets

1/16-16/16 as originally filed

- ☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing
3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages
  - ☐ the claims, Nos.
  - ☐ the drawings, sheets/figs
  - ☐ the sequence listing (*specify*):
  - ☐ any table(s) related to sequence listing (*specify*):
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages
  - ☐ the claims, Nos.
  - ☐ the drawings, sheets/figs
  - ☐ the sequence listing (*specify*):
  - ☐ any table(s) related to sequence listing (*specify*):

\* If item 4 applies, some or all of these sheets may be marked "superseded."

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**Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

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**1. Statement**

Novelty (N)	Yes: Claims	2-22,25-27,29,30
	No: Claims	1,23,24,28
Inventive step (IS)	Yes: Claims	
	No: Claims	1-30
Industrial applicability (IA)	Yes: Claims	1-30
	No: Claims	

**2. Citations and explanations (Rule 70.7):**

**see separate sheet**

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**Box No. VII Certain defects in the international application**

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The following defects in the form or contents of the international application have been noted:

**see separate sheet**

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**Box No. VIII Certain observations on the international application**

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The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

**see separate sheet**

**Re Item VIII**

**Certain observations on the international application**

1. Although claims 1,23 and 24 have been drafted as separate independent claims, they appear to relate effectively to the same subject-matter and to differ from each other only with regard to the definition of the subject-matter for which protection is sought ..and/or.. in respect of the terminology used for the features of that subject-matter. The aforementioned claims therefore lack conciseness and as such do not meet the requirements of Article 6 PCT.
2. Furthermore claims 1,23 and 24 do not meet the requirements of Article 6 PCT in that the matter for which protection is sought is not clearly defined. The claims attempt to define the subject-matter in terms of the result to be achieved, which merely amounts to a statement of the underlying problem, without providing the technical features necessary for achieving this result.  
For instance, in claim 1 it is unclear how said displaceable elongated member may engage or disengage said locking mechanism, which is also not clearly defined.
3. The feature "stationary locking means" is unclear, since the term "stationary" is not further defined. What means stationary in relation to said locking means, which parts are involved to enable said locking ?  
Furthermore, the term that the locking member is "remotely" arranged of said real is also unclear as long as the term "remotely" is not sufficiently defined. Where is said locking member located ?  
Therefore the requirements of Art. 6 PCT are not met.

**Re Item V**

**Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

1. Reference is made to the following document/s/:

D1: US-A-4 187 996 (EHRlich SOL) 12 February 1980 (1980-02-12)

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- D2: DE 346 719 C (ANDREAS FOERG) 6 January 1922 (1922-01-06)  
D3: EP-A-0 483 069 (OEKOPACK AG) 29 April 1992 (1992-04-29)  
D4: DE 39 048 C (SCHMITT-MANDERBACH) 21 September 1886 (1886-09-21)  
D5: DE 33 23 716 A (FURUYA NORIO ; TAJIMA INDUSTRY CO LTD (JP)) 10 May 1984 (1984-05-10)  
D6: BE 795 454 A (UGGERI REMO) 29 May 1973 (1973-05-29)  
D7: GB 616 556 A (EUGENE LEON PIERRE MOURIES) 24 January 1949 (1949-01-24)

**2. *Novelty***

Insofar the present text can be understood, the subject-matter of claims 1,23,24,28 is not new according to Art. 33(2) PCT.

**Claim 1:**

Document D2, which is considered to represent the most relevant state of the art, discloses (cf. col. 2, line 17 to col. 3, line 3 and figure 1,4,7 and 8) a vertically adjustable fixture adapted to be secured to an overhead surface, comprising a base member c adapted to be secured to the surface, a flexible elongated member f retractable in and extendable out of said base member p, a rotatable reel 12 provided in said base member p with said elongated member f being partly wound around said reel 12, and a stationary locking mechanism i,l provided in said base member p and remotely from said reel h, said locking mechanism i,l being adapted in a locked position to lock said elongated member f with respect to said base member p, with said elongated member f being selectively displaceable to disengage said locking mechanism i,l to an unlocked position thereby allowing said elongated member f to be displaced relative to said base member p by selectively retracting said elongate member f into or withdrawing it from, said base member p.

The locking member i,l can also be considered as stationary locking member, even if parts of it are movable to guarantee the locking effect.

**Claims 23,24,28:**

The features of the corresponding independent claims 23, 24 and 28 are also completely known from D1 and can be easily derived from figures 1,4,7 and 8.

A further novelty destroying document for the above-mentioned claims is D4 (see page 1, col. 2, line 15 to page 2, col. 2, line 7 and figs. 1a, 3).

**3. *Inventive step***

**Claim 1:**

Even if the locking member of D2 or D4 was not considered to be "stationary" a skilled person would simply apply the a knocking device as described in D3 for such a vertically adjustable fixture as known from D2 or D4 if he seeks to solve the problem posed.

Therefore none of the afore-mentioned claims meets the requirements of Art. 33(3) PCT.

**Claims 2-22,25-27,29,30:**

These remaining dependent claims are considered to concern slight constructional changes in the vertically adjustable fixture as defined in independent claims 1,23,24 and 28 which comes within the scope of the customary practice followed by persons skilled in the art, especially as the advantages thus achieved can readily be foreseen. Consequently, the subject-matter of these claims also lacks an inventive step.

**Re Chapter VII:**

1. The features of all claims are not provided with reference signs placed in parentheses (Rule 6.2(b) PCT).
2. Contrary to the requirements of Rule 5.1(a)(ii) PCT, the relevant background art disclosed in the documents D1 to D4 is not mentioned in the description, nor are these documents identified therein.

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